APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/339,325	06/23/1999	YOAV SHOHAM	ARIBP032	2458

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EXAMINER
VAN BRAMER, JOHN W

ART UNIT	PAPER NUMBER
3622	

NOTIFICATION DATE	DELIVERY MODE
01/05/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptocorrespondence@ip-patent.com

	Application No.	Applicant(s)
Office Action Summary	09/339,325	SHOHAM ET AL.
	Examiner	Art Unit	
	JOHN VAN BRAMER	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02 August 2010</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>11,22,24-29,32-37 and 40-46</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>11, 22, 24-29, 32-37, and 40-46</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August

2, 2010 has been entered.

Response to Amendment

2.   The amendment filed on August 2, 2010, has amended Claims 11, 22, 25, 27-29,

36, and 37. Claims 12, 13, 30, 31, 38 and 39 were cancelled and new claims 44-46

were added. Thus, the currently pending claims considered below remain Claims 11,

22, 24-29, 32-37, and 40-46.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under
section 122(b), by another filed in the United States before the invention by the
applicant for patent or (2) a patent granted on an application for patent by
another filed in the United States before the invention by the applicant for patent,
except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application

filed in the United States only if the international application designated the
United States and was published under Article 21(2) of such treaty in the English
language.

4.   Claims 11, 22, 24-29, 32-37, and 40-46 are rejected under 35 U.S.C. 102(e) as

being anticipated by <u>Woolston</u> (U.S. Patent Number: 5,845,265).

Claims 22, 28, and 36: <u>Woolston</u> discloses a system, method of managing the

trading of goods auctioned by auction participants, and computer program product

for managing the trading of goods auctioned by auction participants comprising:

a. A market specification console (posting terminal 700) configured to receive from

a user:

    1. A specification of a first market phase, wherein the first market phase is

        defined by one or more user selectable trading primitives that dictate the

        behavior of one or more components in a programmable auction server. (Col

        4, lines 10-37; Col 5, line 48 through Col 6, line 53; Col 10, lines 3-18; and

        Col 15, line 23 - Col 16, line 58)

    2. A specification of a succeeding phase, wherein the succeeding phase is

        defined by one or more selectable trading primitives that dictate the behavior

        of one or more components in a programmable auction server. (Col 4, lines

        10-37; Col 5, line 48 through Col 6, line 53; Col 10, lines 3-18; and Col 15,

        line 23 - Col 16, line 58).

b. A programmable auction server (market maker computer 800), in communication

    with the market specification console, to programmable auction server configured

to : receive, from the market specification console, a market protocol comprising

the received first and succeeding market phase specifications and manage

trading of at least one good auctioned by at least one auction participant in

accordance with the protocol. (Col 4, lines 39-58; Col 5, line 48 through Col 6,

line 53; and Col 14, lines 51-63).

Claim 11: Woolston discloses the system of Claim 22, wherein the at least one

market specification console includes a graphical user interface. (Col 15, line 23 -

Col 16, line 58; and Figure 13).

Claims 29, and 37: Woolston discloses the method, and computer program product

of Claims 28, and 36 respectively, wherein the specification of the first market phase

and the specification of the succeeding phase are received via a market

specification console that includes a graphical user interface. (Col 15, line 23 - Col

16, line 58; and Figure 13).

Claims 24, 32, and 40: Woolston discloses the system, method, and computer

program product for conducting auctions as in Claims 22, 28, and 36 respectively,

wherein the first market phase includes an interval in which at least one transaction

occurs. (Col 5, line 48 through Col 6, line 53)

Claim 25: Woolston discloses the system of Claim 24, wherein the transaction comprises submitting a bid. (Col 5, line 48 through Col 6, line 53; Col 15, line 23 - Col 16, line 58)

Claim 33, and 41: Woolston discloses the method, and computer program product of Claims 32, and 40 respectively, wherein the transaction is selected from the group including submitting a bid, admitting a bid, withdrawing a bid, and replacing a bid. (Col 5, line 48 through Col 6, line 53; Col 15, line 23 - Col 16, line 58)

Claims 26, 34, and 42: Woolston discloses the system, method, and computer program product of Claims 22, 28, and 36 respectively, where in the first market phase is terminated by a condition. (Col 5, line 48 through Col 6, line 53)

Claims 27, 35, and 43: Woolston discloses the system, method, and computer program product of Claims 26, 34, and 42 respectively, wherein the condition is a time period. (Col 5, line 48 through Col 6, line 53)

Claim 44: Woolston discloses the system of 24 wherein the transaction comprises admitting a bid. (Col 5, line 48 through Col 6, line 53; Col 15, line 23 - Col 16, line 58)

Claim 45: Woolston discloses the system of 24 wherein the transaction comprises

withdrawing a bid. (Col 5, line 48 through Col 6, line 53; Col 10, lines 33-64; Col 12,

lines 11-19; Col 20, line 65 through Col 21, line 6)

Claim 46: Woolston discloses the system of 24 wherein the transaction comprises

replacing a bid. (Col 5, line 48 through Col 6, line 53; Col 10, lines 33-64; Col 12,

lines 11-19; Col 20, line 65 through Col 21, line 6)

5.   Claims 11, 22, 24-29, 32-37, and 40-46 are rejected under 35 U.S.C. 102(e) as

being anticipated by Fisher et al. (U.S. Patent Number: 6,243,691).

Claims 22, 28, and 36: Fisher discloses a system, method of managing the trading

of goods auctioned by auction participants, and computer program product for

managing the trading of goods auctioned by auction participants comprising:

a. A market specification console (Col 4, lines 30-43; and Col 5, line 49 through Col

    6, line 25) configured to receive from a user:

    1. A specification of a first market phase, wherein the first market phase is

        defined by one or more user selectable trading primitives that dictate the

        behavior of one or more components in a programmable auction server. (Col

        4, lines 30-43; Col 5, line 49 through Col 6, line 25; Col 7, lines 43-52; Col 8,

        lines 13-38; Col 8, line 56 through Col 9, line 6; Col 11, lines 14-34; Col 12,

        lines 1-17; Col 12, lines 33-41, and Col 12, line 63 through Col 13, line 24)

2. A specification of a succeeding phase, wherein the succeeding phase is
    defined by one or more selectable trading primitives that dictate the behavior
    of one or more components in a programmable auction server. (Col 4, lines
    30-43; Col 5, line 49 through Col 6, line 25; Col 7, lines 43-52; Col 8, lines 13-
    38; Col 8, line 56 through Col 9, line 6; Col 11, lines 14-34; Col 12, lines 1-17;
    Col 12, lines 33-41, and Col 12, line 63 through Col 13, line 24)

b. A programmable auction server, in communication with the market specification
    console, to programmable auction server configured to : receive, from the market
    specification console, a market protocol comprising the received first and
    succeeding market phase specifications and manage trading of at least one good
    auctioned by at least one auction participant in accordance with the protocol. (Col
    7, lines 20-52; Col 8, lines 27-38; Col 8, line 56 through Col 9, line 6; Col 11,
    lines 14-34; Col 12, lines 1-17; Col 12, lines 33-41, and Col 12, line 63
    through Col 13, line 24).

Claim 11: <u>Fisher</u> discloses the system of Claim 22, wherein the at least one market
specification console includes a graphical user interface. (Fig.1 item 300; Col 4, lines
30-43; Col 5, line 49 through Col 6, line 25; Col 7, lines 43-52; Col 8, lines 13-38).

Claims 29, and 37: <u>Fisher</u> discloses the method, and computer program product of
Claims 28, and 36 respectively, wherein the specification of the first market phase
and the specification of the succeeding phase are received via a market

specification console that includes a graphical user interface. (Fig.1 item 300; Col 4, lines 30-43; Col 5, line 49 through Col 6, line 25; Col 7, lines 43-52; Col 8, lines 13-38).

Claims 24, 32, and 40: Fisher discloses the system, method, and computer program product for conducting auctions as in Claims 22, 28, and 36 respectively, wherein the first market phase includes an interval in which at least one transaction occurs. (Col 8, lines 13-38; Col 8, line 56 through Col 9, line 6; Col 11, lines 14-34; Col 12, lines 1-17; Col 12, lines 33-41, and Col 12, line 63 through Col 13, line 24)

Claim 25: Fisher discloses the system of Claim 24, wherein the transaction comprises submitting a bid. (Col 8, lines 13-38; Col 8, line 56 through Col 9, line 6; Col 11, lines 14-34; Col 12, lines 1-17; Col 12, lines 33-41, and Col 12, line 63 through Col 13, line 24)

Claim 33, and 41: Fisher discloses the method, and computer program product of Claims 32, and 40 respectively, wherein the transaction is selected from the group including submitting a bid, admitting a bid, withdrawing a bid, and replacing a bid. (Col 8, lines 13-38; Col 8, line 56 through Col 9, line 6; Col 11, lines 14-34; Col 12, lines 1-17; Col 12, lines 33-41, and Col 12, line 63 through Col 13, line 24)

Claims 26, 34, and 42: Fisher discloses the system, method, and computer program product of Claims 22, 28, and 36 respectively, where in the first market phase is terminated by a condition. (Col 8, lines 13-38; Col 8, line 56 through Col 9, line 6; Col 11, lines 14-34; Col 12, lines 1-17; Col 12, lines 33-41, and Col 12, line 63 through Col 13, line 24)

Claims 27, 35, and 43: Fisher discloses the system, method, and computer program product of Claims 26, 34, and 42 respectively, wherein the condition is a time period. (Col 8, lines 13-38; Col 8, line 56 through Col 9, line 6; Col 11, lines 14-34; Col 12, lines 1-17; Col 12, lines 33-41, and Col 12, line 63 through Col 13, line 24)

Claim 44: Fisher discloses the system of 24 wherein the transaction comprises admitting a bid. (Col 7, lines 20-35; Col 8, lines 13-38; Col 8, line 56 through Col 9, line 6; Col 11, lines 14-34; Col 12, lines 1-17; Col 12, lines 33-41, and Col 12, line 63 through Col 13, line 24)

Claim 45: Fisher discloses the system of 24 wherein the transaction comprises withdrawing a bid. (Col 8, lines 13-38; Col 8, line 56 through Col 9, line 6; Col 11, lines 14-34; Col 12, lines 1-17; Col 12, lines 33-41, and Col 12, line 63 through Col 13, line 24)

Claim 46: Fisher discloses the system of 24 wherein the transaction comprises replacing a bid. (Col 8, lines 13-38; Col 8, line 56 through Col 9, line 6; Col 11, lines 14-34; Col 12, lines 1-17; Col 12, lines 33-41, and Col 12, line 63 through Col 13, line 24)

Response to Arguments

6.   Applicant's arguments filed December 31, 2009 have been fully considered but they are not persuasive. The applicant argues that Fisher does not disclose the multi-phase protocol as recited in claims 22, 28, and 36. The applicant further asserts that Claims 22, 28, and 36 recite a "succeeding phase is defined by one or more selectable trading primatives that dictate the behavior of one or more components in a programmable auction server" is not found in the Fisher reference. However, the teachings Fisher disclose receiving an auction start date and time, an auction stop date and time, and a reserve price. After the auction commences a determination is made as to whether each bid satisfies a reserve price in Col 5, line 48 through Col 6, line 53. Given the applicant specification a trading primitive is a rule such as a market rule governing a particular phase that dictates the behavior of a component (Spec Page 7, lines 1-3). Thus a rule dictating when the auction is to begin is a trading primitive, a rule dictating when the auction is to end is a trading primitive, as well as information associated with the conducting of a succeeding phase, and a reserve price is a trading primitive. Thus the limitations of the claims

as currently written have been met. In order to further the prosecution of the case

the examiner provides below a listing of sections in the applicants specification that

the examiner is using to assist in the interpretation of the breadth and scope of the

applicants claims:

Market phase: a phase may be defined by a time period, a limitation, a condition,

exception, exclusion, or a provisio etc. (Spec Page 6, lines 15-17)

Each phase of an auction is defined by specifying the trading

primatives it comprises or the timeline for application of the trading

primatives (Spec Page 11, lines 10-11)

Protocol: (e.g. opening auctions, admitting or rejecting bids, clearing prices,

notifying traders of market events, and closing auctions) (Spec

Page 8, lines 1-2) Combinations of rules for participating in and

operating a market (Spec page 8, line 15) A market protocol may

accord to distinct market entities various permissions to perform

activities such as bidding in certain ways or retrieving certain

information (Page 12, lines 14-15)

Trading primitive: rules such as market rules governing a particular phase that

dictate the behavior of a component (Spec Page 7, lines 1-3) a

TP might specify whether an auction is one-sided, a sealed-bid, or

"open outcry". TPs might also specify when important events,

such as clears or information releases are to occur (Spec 11, lines

5-9)

Conclusion

7.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to JOHN VAN BRAMER whose telephone number is

(571)272-8198. The examiner can normally be reached on 6am - 4pm Monday through

Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax

phone number for the organization where this application or proceeding is assigned

is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Van Bramer/
John Van Bramer
Primary Examiner, Art Unit 3622